

105TH CONGRESS
2D SESSION

S. 1723

AN ACT

To amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Competitiveness Act”.

1 (b) REFERENCES IN ACT.—Except as otherwise spe-
2 cifically provided in this Act, whenever in this Act an
3 amendment or repeal is expressed as an amendment to
4 or a repeal of a provision, the reference shall be deemed
5 to be made to the Immigration and Nationality Act (8
6 U.S.C. 1101 et seq.).

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

9 (1) American companies today are engaged in
10 fierce competition in global markets.

11 (2) Companies across America are faced with
12 severe high skill labor shortages that threaten their
13 competitiveness.

14 (3) The National Software Alliance, a consor-
15 tium of concerned government, industry, and aca-
16 demic leaders that includes the United States Army,
17 Navy, and Air Force, has concluded that “The sup-
18 ply of computer science graduates is far short of the
19 number needed by industry.”. The Alliance con-
20 cludes that the current severe understaffing could
21 lead to inflation and lower productivity.

22 (4) The Department of Labor projects that the
23 United States economy will produce more than
24 130,000 information technology jobs in each of the
25 next 10 years, for a total of more than 1,300,000.

1 (5) Between 1986 and 1995, the number of
2 bachelor's degrees awarded in computer science de-
3 clined by 42 percent. Therefore, any short-term in-
4 creases in enrollment may only return the United
5 States to the 1986 level of graduates and take sev-
6 eral years to produce these additional graduates.

7 (6) A study conducted by Virginia Tech for the
8 Information Technology Association of America esti-
9 mates that there are more than 340,000 unfilled po-
10 sitions for highly skilled information technology
11 workers in American companies.

12 (7) The Hudson Institute estimates that the
13 unaddressed shortage of skilled workers throughout
14 the United States economy will result in a 5-percent
15 drop in the growth rate of GDP. That translates
16 into approximately \$200,000,000,000 in lost output,
17 nearly \$1,000 for every American.

18 (8) It is necessary to deal with the current situ-
19 ation with both short-term and long-term measures.

20 (9) In fiscal year 1997, United States compa-
21 nies and universities reached the cap of 65,000 on
22 H-1B temporary visas a month before the end of
23 the fiscal year. In fiscal year 1998 the cap is ex-
24 pected to be reached as early as May if Congress
25 takes no action. And it will be hit earlier each year

1 until backlogs develop of such a magnitude as to
 2 prevent United States companies and researchers
 3 from having any timely access to skilled foreign-born
 4 professionals.

5 (10) It is vital that more American young peo-
 6 ple be encouraged and equipped to enter technical
 7 fields, such as mathematics, engineering, and com-
 8 puter science.

9 (11) If American companies cannot find home-
 10 grown talent, and if they cannot bring talent to this
 11 country, a large number are likely to move key oper-
 12 ations overseas, sending those and related American
 13 jobs with them.

14 (12) Inaction in these areas will carry signifi-
 15 cant consequences for the future of American com-
 16 petitiveness around the world and will seriously un-
 17 dermine efforts to create and keep jobs in the
 18 United States.

19 **SEC. 3. INCREASED ACCESS TO SKILLED PERSONNEL FOR**
 20 **UNITED STATES COMPANIES AND UNIVER-**
 21 **SITIES.**

22 (a) ESTABLISHMENT OF H1-C NONIMMIGRANT CAT-
 23 EGORY.—

24 (1) IN GENERAL.—Section 101(a)(15)(H)(i) (8
 25 U.S.C. 1101(a)(15)(H)(i)) is amended—

1 (A) by inserting “and other than services
2 described in clause (c)” after “subparagraph
3 (O) or (P)”;

4 (B) by inserting after “section 212(n)(1)”
5 the following: “, or (c) who is coming tempo-
6 rarily to the United States to perform labor as
7 a health care worker, other than a physician, in
8 a specialty occupation described in section
9 214(i)(1), who meets the requirements of the
10 occupation specified in section 214(i)(2), who
11 qualifies for the exemption from the grounds of
12 inadmissibility described in section
13 212(a)(5)(C), and with respect to whom the At-
14 torney General certifies that the intending em-
15 ployer has filed with the Attorney General an
16 application under section 212(n)(1).”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 212(n)(1) is amended by in-
19 serting “or (c)” after “section
20 101(a)(15)(H)(i)(b)” each place it appears.

21 (B) Section 214(i) is amended by inserting
22 “or (c)” after “section 101(a)(15)(H)(i)(b)”
23 each place it appears.

24 (3) TRANSITION RULE.—Any petition filed
25 prior to the date of enactment of this Act, for

1 issuance of a visa under section 101(a)(15)(H)(i)(b)
 2 of the Immigration and Nationality Act on behalf of
 3 an alien described in the amendment made by para-
 4 graph (1)(B) shall, on and after that date, be treat-
 5 ed as a petition filed under section
 6 101(a)(15)(H)(i)(c) of that Act, as added by para-
 7 graph (1).

8 (b) ANNUAL CEILINGS FOR H1-B AND H1-C WORK-
 9 ERS.—

10 (1) AMENDMENT OF THE INA.—Section
 11 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended to read
 12 as follows:

13 “(g)(1) The total number of aliens who may be issued
 14 visas or otherwise provided nonimmigrant status during
 15 any fiscal year—

16 “(A) under section 101(a)(15)(H)(i)(b)—

17 “(i) for each of fiscal years 1992 through
 18 1997, and for any other fiscal year for which
 19 this subsection does not specify a higher ceiling,
 20 may not exceed 65,000,

21 “(ii) for fiscal year 1998, may not exceed
 22 95,000,

23 “(iii) for fiscal year 1999, may not exceed
 24 the number determined for fiscal year 1998
 25 under such section, minus 10,000, plus the

1 number of unused visas under subparagraph
 2 (B) for the fiscal year preceding the applicable
 3 fiscal year, and

4 “(iv) for fiscal year 2000, and each appli-
 5 cable fiscal year thereafter through fiscal year
 6 2002, may not exceed the number determined
 7 for fiscal year 1998 under such section, minus
 8 10,000, plus the number of unused visas under
 9 subparagraph (B) for the fiscal year preceding
 10 the applicable fiscal year, plus the number of
 11 unused visas under subparagraph (C) for the
 12 fiscal year preceding the applicable fiscal year;

13 “(B) under section 101(a)(15)(H)(ii)(b), begin-
 14 ning with fiscal year 1992, may not exceed 66,000;
 15 or

16 “(C) under section 101(a)(15)(H)(i)(c), begin-
 17 ning with fiscal year 1999, may not exceed 10,000.

18 For purposes of determining the ceiling under subpara-
 19 graph (A) (iii) and (iv), not more than 20,000 of the un-
 20 used visas under subparagraph (B) may be taken into ac-
 21 count for any fiscal year.”.

22 (2) TRANSITION PROCEDURES.—Any visa
 23 issued or nonimmigrant status otherwise accorded to
 24 any alien under clause (i)(b) or (ii)(b) of section
 25 101(a)(15)(H) of the Immigration and Nationality

1 Act pursuant to a petition filed during fiscal year
 2 1998 but approved on or after October 1, 1998,
 3 shall be counted against the applicable ceiling in sec-
 4 tion 214(g)(1) of that Act for fiscal year 1998 (as
 5 amended by paragraph (1) of this subsection), ex-
 6 cept that, in the case where counting the visa or the
 7 other granting of status would cause the applicable
 8 ceiling for fiscal year 1998 to be exceeded, the visa
 9 or grant of status shall be counted against the appli-
 10 cable ceiling for fiscal year 1999.

11 **SEC. 4. EDUCATION AND TRAINING IN SCIENCE AND TECH-**
 12 **NOLOGY.**

13 (a) DEGREES IN MATHEMATICS, COMPUTER
 14 SCIENCE, AND ENGINEERING.—Subpart 4 of part A of
 15 title IV of the Higher Education Act of 1965 (20 U.S.C.
 16 1070c et seq.) is amended in section 415A(b) (20 U.S.C.
 17 1070c(b)), by adding at the end the following new para-
 18 graph:

19 “(3) MATHEMATICS, COMPUTER SCIENCE, AND
 20 ENGINEERING SCHOLARSHIPS.—It shall be a permis-
 21 sible use of the funds made available to a State
 22 under this section for the State to establish a schol-
 23 arship program for eligible students who dem-
 24 onstrate financial need and who seek to enter a pro-

1 gram of study leading to a degree in mathematics,
2 computer science, or engineering.”.

3 **SEC. 5. INCREASED ENFORCEMENT PENALTIES AND IM-**
4 **PROVED OPERATIONS.**

5 (a) INCREASED PENALTIES FOR VIOLATIONS OF H1–
6 B OR H1–C PROGRAM.—Section 212(n)(2)(C) (8 U.S.C.
7 1182(n)(2)(C)) is amended—

8 (1) by striking “a failure to meet” and all that
9 follows through “an application—” and inserting “a
10 willful failure to meet a condition in paragraph (1)
11 or a willful misrepresentation of a material fact in
12 an application—”; and

13 (2) in clause (i), by striking “\$1,000” and in-
14 serting “\$5,000”.

15 (b) SPOT INSPECTIONS DURING PROBATIONARY PE-
16 RIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is
17 amended—

18 (1) by redesignating subparagraph (D) as sub-
19 paragraph (E); and

20 (2) by inserting after subparagraph (C) the fol-
21 lowing:

22 “(D) The Secretary of Labor may, on a case-by-case
23 basis, subject an employer to random inspections for a pe-
24 riod of up to five years beginning on the date that such
25 employer is found by the Secretary of Labor to have en-

1 gaged in a willful failure to meet a condition of subpara-
2 graph (A), or a misrepresentation of material fact in an
3 application.”.

4 (c) LAYOFF PROTECTION FOR UNITED STATES
5 WORKERS.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as
6 amended by subsection (b), is further amended by adding
7 at the end the following:

8 “(F)(i) If the Secretary finds, after notice
9 and opportunity for a hearing, a willful failure
10 to meet a condition in paragraph (1) or a will-
11 ful misrepresentation of a material fact in an
12 application, in the course of which the employer
13 has replaced a United States worker with a
14 nonimmigrant described in section
15 101(a)(15)(H)(i) (b) or (c) within the 6-month
16 period prior to, or within 90 days following, the
17 filing of the application—

18 “(I) the Secretary shall notify the At-
19 torney General of such finding, and may,
20 in addition, impose such other administra-
21 tive remedies (including civil monetary
22 penalties in an amount not to exceed
23 \$25,000 per violation) as the Secretary de-
24 termines to be appropriate; and

1 “(II) the Attorney General shall not
2 approve petitions filed with respect to the
3 employer under section 204 or 214(c) dur-
4 ing a period of at least 2 years for aliens
5 to be employed by the employer.

6 “(ii) For purposes of this subparagraph:

7 “(I) The term ‘replace’ means the em-
8 ployment of the nonimmigrant at the spe-
9 cific place of employment and in the spe-
10 cific employment opportunity from which a
11 United States worker with substantially
12 equivalent qualifications and experience in
13 the specific employment opportunity has
14 been laid off.

15 “(II) The term ‘laid off’, with respect
16 to an individual, means the individual’s
17 loss of employment other than a discharge
18 for inadequate performance, violation of
19 workplace rules, cause, voluntary depar-
20 ture, voluntary retirement, or the expira-
21 tion of a grant, contract, or other agree-
22 ment. The term ‘laid off’ does not include
23 any situation in which the individual in-
24 volved is offered, as an alternative to such
25 loss of employment, a similar employment

1 opportunity with the same employer at the
 2 equivalent or higher compensation and
 3 benefits as the position from which the em-
 4 ployee was discharged, regardless of wheth-
 5 er or not the employee accepts the offer.

6 “(III) The term ‘United States work-
 7 er’ means—

8 “(aa) a citizen or national of the
 9 United States;

10 “(bb) an alien who is lawfully ad-
 11 mitted for permanent residence; or

12 “(cc) an alien authorized to be
 13 employed by this Act or by the Attor-
 14 ney General.”.

15 (d) PROHIBITION OF USE OF H-1B VISAS BY EM-
 16 PLOYERS ASSISTING IN INDIA’S NUCLEAR WEAPONS PRO-
 17 GRAM.—Section 214(c) is amended—

18 (1) by redesignating paragraphs (6), (7), and
 19 (8) as paragraphs (7), (8), and (9), respectively; and

20 (2) by inserting after paragraph (5) the follow-
 21 ing new paragraph:

22 “(6) The Attorney General shall not approve a peti-
 23 tion under section 101(a)(15)(H)(i)(b) for any employer
 24 that has knowledge or reasonable cause to know that the

1 employer is providing material assistance for the develop-
 2 ment of nuclear weapons in India or any other country.”.

3 (e) EXPEDITED REVIEWS AND DECISIONS.—Section
 4 214(c)(2)(C) (8 U.S.C. 1184(c)(2)(C)) is amended by in-
 5 serting “or section 101(a)(15)(H)(i)(b)” after “section
 6 101(a)(15)(L)”.

7 (f) DETERMINATIONS ON LABOR CONDITION APPLI-
 8 CATIONS TO BE MADE BY ATTORNEY GENERAL.—

9 (1) IN GENERAL.—Section 101(a)(15)(H)(i)(b)
 10 (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by
 11 striking “with respect to whom” and all that follows
 12 through “with the Secretary” and inserting “with
 13 respect to whom the Attorney General determines
 14 that the intending employer has filed with the Attor-
 15 ney General”.

16 (2) CONFORMING AMENDMENTS.—Section
 17 212(n) (8 U.S.C. 1182(n)(1)) is amended—

18 (A) in paragraph (1)—

19 (i) in the first sentence, by striking
 20 “Secretary of Labor” and inserting “Attor-
 21 ney General”;

22 (ii) in the sixth and eighth sentences,
 23 by inserting “of Labor” after “Secretary”
 24 each place it appears;

1 (iii) in the ninth sentence, by striking
2 “Secretary of Labor” and inserting “Attor-
3 ney General”;

4 (iv) by amending the tenth sentence
5 to read as follows: “Unless the Attorney
6 General finds that the application is in-
7 complete or obviously inaccurate, the At-
8 torney General shall provide the certifi-
9 cation described in section
10 101(a)(15)(H)(i)(b) and adjudicate the
11 nonimmigrant visa petition.”; and

12 (v) by inserting in full measure mar-
13 gin after subparagraph (D) the following
14 new sentence: “Such application shall be
15 filed with the employer’s petition for a
16 nonimmigrant visa for the alien, and the
17 Attorney General shall transmit a copy of
18 such application to the Secretary of
19 Labor.”; and

20 (B) in the first sentence of paragraph
21 (2)(A), by striking “Secretary” and inserting
22 “Secretary of Labor”.

23 (g) PREVAILING WAGE CONSIDERATIONS.—Section
24 101 (8 U.S.C. 1101) is amended by adding at the end
25 the following new subsection:

1 “(i)(1) In computing the prevailing wage level for an
2 occupational classification in an area of employment for
3 purposes of section 212(n)(1)(A)(i)(II) and section
4 212(a)(5)(A) in the case of an employee of—

5 “(A) an institution of higher education (as de-
6 fined in section 1201(a) of the Higher Education
7 Act of 1965), or a related or affiliated nonprofit en-
8 tity, or

9 “(B) a nonprofit or Federal research institute
10 or agency,

11 the prevailing wage level shall only take into account em-
12 ployees at such institutions, entities, and agencies in the
13 area of employment.

14 “(2) With respect to a professional athlete (as defined
15 in section 212(a)(5)(A)(iii)(II)) when the job opportunity
16 is covered by professional sports league rules or regula-
17 tions, the wage set forth in those rules or regulations shall
18 be considered as not adversely affecting the wages of
19 United States workers similarly employed and be consid-
20 ered the prevailing wage.

21 “(3) To determine the prevailing wage, employers
22 may use either government or nongovernment published
23 surveys, including industry, region, or statewide wage sur-
24 veys, to determine the prevailing wage, which shall be con-
25 sidered correct and valid if the survey was conducted in

1 accordance with generally accepted industry standards
 2 and the employer has maintained a copy of the survey in-
 3 formation.”.

4 (h) POSTING REQUIREMENT.—Section
 5 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended
 6 to read as follows:

7 “(ii) if there is no such bargaining rep-
 8 resentative, has provided notice of filing in the
 9 occupational classification through such meth-
 10 ods as physical posting in a conspicuous loca-
 11 tion, or electronic posting through an internal
 12 job bank, or electronic notification available to
 13 employees in the occupational classification.”.

14 **SEC. 6. ANNUAL REPORTS ON H1-B VISAS.**

15 Section 212(n) (8 U.S.C. 1182(n)) is amended by
 16 adding at the end the following:

17 “(3) Using data from petitions for visas issued
 18 under section 101(a)(15)(H)(i)(b), the Attorney
 19 General shall annually submit the following reports
 20 to Congress:

21 “(A) Quarterly reports on the numbers of
 22 aliens who were provided nonimmigrant status
 23 under section 101(a)(15)(H)(i)(b) during the
 24 previous quarter and who were subject to the

1 numerical ceiling for the fiscal year established
2 under section 214(g)(1).

3 “(B) Annual reports on the occupations
4 and compensation of aliens provided non-
5 immigrant status under such section during the
6 previous fiscal year.”.

7 **SEC. 7. STUDY AND REPORT ON HIGH-TECHNOLOGY LABOR**
8 **MARKET NEEDS.**

9 (a) STUDY.—The National Science Foundation shall
10 oversee a study involving the participation of individuals
11 representing a variety of points of view, including rep-
12 resentatives from academia, government, business, and
13 other appropriate organizations, to assess the labor mar-
14 ket needs for workers with high technology skills during
15 the 10-year period beginning on the date of enactment of
16 this Act. The study shall focus on the following issues:

17 (1) The future training and education needs of
18 the high-technology sector over that 10-year period,
19 including projected job growth for high-technology
20 issues.

21 (2) Future training and education needs of
22 United States students to ensure that their skills, at
23 various levels, are matched to the needs of the high
24 technology and information technology sector over
25 that 10-year period.

1 (3) An analysis of progress made by educators,
2 employers, and government entities to improve the
3 teaching and educational level of American students
4 in the fields of math, science, computer, and engi-
5 neering since 1998.

6 (4) An analysis of the number of United States
7 workers currently or projected to work overseas in
8 professional, technical, and managerial capacities.

9 (5) The following additional issues:

10 (A) The need by the high-technology sector
11 for foreign workers with specific skills.

12 (B) The potential benefits gained by the
13 universities, employers, and economy of the
14 United States from the entry of skilled profes-
15 sionals in the fields of science and engineering.

16 (C) The extent to which globalization has
17 increased since 1998.

18 (D) The needs of the high-technology sec-
19 tor to localize United States products and serv-
20 ices for export purposes in light of the increas-
21 ing globalization of the United States and world
22 economy.

23 (E) An examination of the amount and
24 trend of high technology work that is out-

1 sourced from the United States to foreign coun-
2 tries.

3 (b) REPORT.—Not later than October 1, 2000, the
4 National Science Foundation shall submit a report con-
5 taining the results of the study described in subsection (a)
6 to the Committees on the Judiciary of the House of Rep-
7 resentatives and the Senate.

8 (c) AVAILABILITY OF FUNDS.—Funds available to
9 the National Science Foundation shall be made available
10 to carry out this section.

11 **SEC. 8. LIMITATION ON PER COUNTRY CEILING WITH RE-**
12 **SPECT TO EMPLOYMENT-BASED IMMI-**
13 **GRANTS.**

14 (a) SPECIAL RULES.—Section 202(a) (8 U.S.C.
15 1152(a)) is amended by adding at the end the following
16 new paragraph:

17 “(5) RULES FOR EMPLOYMENT-BASED IMMI-
18 GRANTS.—

19 “(A) EMPLOYMENT-BASED IMMIGRANTS
20 NOT SUBJECT TO PER COUNTRY LIMITATION IF
21 ADDITIONAL VISAS AVAILABLE.—If the total
22 number of visas available under paragraph (1),
23 (2), (3), (4), or (5) of section 203(b) for a cal-
24 endar quarter exceeds the number of qualified
25 immigrants who may otherwise be issued such

1 visas, the visas made available under that para-
2 graph shall be issued without regard to the nu-
3 merical limitation under paragraph (2) of this
4 subsection during the remainder of the calendar
5 quarter.

6 “(B) LIMITING FALL ACROSS FOR CERTAIN
7 COUNTRIES SUBJECT TO SUBSECTION (e).—In
8 the case of a foreign state or dependent area to
9 which subsection (e) applies, if the total number
10 of visas issued under section 203(b) exceeds the
11 maximum number of visas that may be made
12 available to immigrants of the state or area
13 under section 203(b) consistent with subsection
14 (e) (determined without regard to this para-
15 graph), in applying subsection (e) all visas shall
16 be deemed to have been required for the classes
17 of aliens specified in section 203(b).”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is
20 amended by striking “paragraphs (3) and (4)” and
21 inserting “paragraphs (3), (4), and (5)”.

22 (2) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is
23 amended by striking “the proportion of the visa
24 numbers” and inserting “except as provided in sub-
25 section (a)(5), the proportion of the visa numbers”.

1 (c) ONE-TIME PROTECTION UNDER PER COUNTRY
 2 CEILING.—Notwithstanding section 214(g)(4) of the Im-
 3 migration and Nationality Act, any alien who—

4 (1) as of the date of enactment of this Act is
 5 a nonimmigrant described in section
 6 101(a)(15)(H)(i) of that Act;

7 (2) is the beneficiary of a petition filed under
 8 section 204(a) for a preference status under para-
 9 graph (1), (2), or (3) of section 203(b); and

10 (3) would be subject to the per country limita-
 11 tions applicable to immigrants under those para-
 12 graphs but for this subsection,

13 may apply for and the Attorney General may grant an
 14 extension of such nonimmigrant status until the alien’s
 15 application for adjustment of status has been processed
 16 and a decision made thereon.

17 **SEC. 9. ACADEMIC HONORARIA.**

18 Section 212 (8 U.S.C. 1182) is amended by adding
 19 at the end the following new subsection:

20 “(p) Any alien admitted under section 101(a)(15)(B)
 21 may accept an honorarium payment and associated inci-
 22 dental expenses for a usual academic activity or activities,
 23 as defined by the Attorney General in consultation with
 24 the Secretary of Education, if such payment is offered by
 25 an institution of higher education (as defined in section

1 1201(a) of the Higher Education Act of 1965) or other
 2 nonprofit entity and is made for services conducted for
 3 the benefit of that institution or entity.”.

4 **SEC. 10. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO**
 5 **CIVILIAN EMPLOYEES.**

6 (a) IN GENERAL.—Section 101(a)(27) of the Immi-
 7 gration and Nationality Act (8 U.S.C. 1101(a)(27)) is
 8 amended—

9 (1) by striking “or” at the end of subparagraph
 10 (J),

11 (2) by striking the period at the end of sub-
 12 paragraph (K) and inserting “; or”, and

13 (3) by adding at the end the following new sub-
 14 paragraph:

15 “(L) an immigrant who would be described in
 16 clause (i), (ii), (iii), or (iv) of subparagraph (I) if
 17 any reference in such a clause—

18 “(i) to an international organization de-
 19 scribed in paragraph (15)(G)(i) were treated as
 20 a reference to the North Atlantic Treaty Orga-
 21 nization (NATO);

22 “(ii) to a nonimmigrant under paragraph
 23 (15)(G)(iv) were treated as a reference to a
 24 nonimmigrant classifiable under NATO–6 (as a
 25 member of a civilian component accompanying

a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the ‘Protocol on the Status of International Military Headquarters’ set up pursuant to the North Atlantic Treaty, or as a dependent); and

“(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.”.

(b) CONFORMING NONIMMIGRANT STATUS FOR CER-

TAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—

Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(I)(i)”, and

(2) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(I)”.

SEC. 11. WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

1 (1) in subparagraph (C), by inserting “, or that
2 the employer has intimidated, discharged, or other-
3 wise retaliated against any person because that per-
4 son has asserted a right or has cooperated in an in-
5 vestigation under this paragraph” after “a material
6 fact in an application”; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(F) Any alien admitted to the United States as a
10 nonimmigrant described in section 101(a)(15)(H)(i)(b),
11 who files a complaint pursuant to subparagraph (A) and
12 is otherwise eligible to remain and work in the United
13 States, shall be allowed to seek other employment in the
14 United States for the duration of the alien’s authorized
15 admission, if—

16 “(i) the Secretary finds a failure by the em-
17 ployer to meet the conditions described in subpara-
18 graph (C), and

19 “(ii) the alien notifies the Immigration and
20 Naturalization Service of the name and address of
21 his new employer.”.

22 **SEC. 12. PASSPORTS ISSUED FOR CHILDREN UNDER 16.**

23 (a) IN GENERAL.—Section 1 of title IX of the Act
24 of June 15, 1917 (22 U.S.C. 213) is amended—

1 (1) by striking “Before” and inserting “(a) IN
2 GENERAL.—Before”, and

3 (2) by adding at the end the following new sub-
4 section:

5 “(b) PASSPORTS ISSUED FOR CHILDREN UNDER
6 16.—

7 “(1) SIGNATURES REQUIRED.—In the case of a
8 child under the age of 16, the written application re-
9 quired as a prerequisite to the issuance of a passport
10 for such child shall be signed by—

11 “(A) both parents of the child if the child
12 lives with both parents;

13 “(B) the parent of the child having pri-
14 mary custody of the child if the child does not
15 live with both parents; or

16 “(C) the surviving parent (or legal guard-
17 ian) of the child, if 1 or both parents are de-
18 ceased.

19 “(2) WAIVER.—The Secretary of State may
20 waive the requirements of paragraph (1)(A) if the
21 Secretary determines that circumstances do not per-
22 mit obtaining the signatures of both parents.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to applications for passports filed
25 on or after the date of the enactment of this Act.

1 **SEC. 13. JOB TRAINING DEMONSTRATION PROGRAMS.**

2 (a) IN GENERAL.—Subject to subsection (c), in es-
3 tablishing demonstration programs under section 452(c)
4 of the Job Training Partnership Act (29 U.S.C. 1732(c)),
5 as in effect on the date of enactment of this Act, or a
6 successor Federal law, the Secretary of Labor shall estab-
7 lish demonstration programs to provide technical skills
8 training for workers, including incumbent workers.

9 (b) GRANTS.—Subject to subsection (c), the Sec-
10 retary of Labor shall award grants to carry out the pro-
11 grams to—

12 (1) private industry councils established under
13 section 102 of the Job Training Partnership Act (29
14 U.S.C. 1512), as in effect on the date of enactment
15 of this Act, or successor entities established under a
16 successor Federal law; or

17 (2) regional consortia of councils or entities de-
18 scribed in paragraph (1).

19 (c) LIMITATION.—The Secretary of Labor shall es-
20 tablish programs under subsection (a), including awarding
21 grants to carry out such programs under subsection (b),
22 only with funds made available to carry out such programs
23 under subsection (a) and not with funds made available

- 1 under the Job Training Partnership Act or a successor
- 2 Federal law.

Passed the Senate May 18, 1998.

Attest:

Secretary.

105TH CONGRESS
2D SESSION

S. 1723

AN ACT

To amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

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